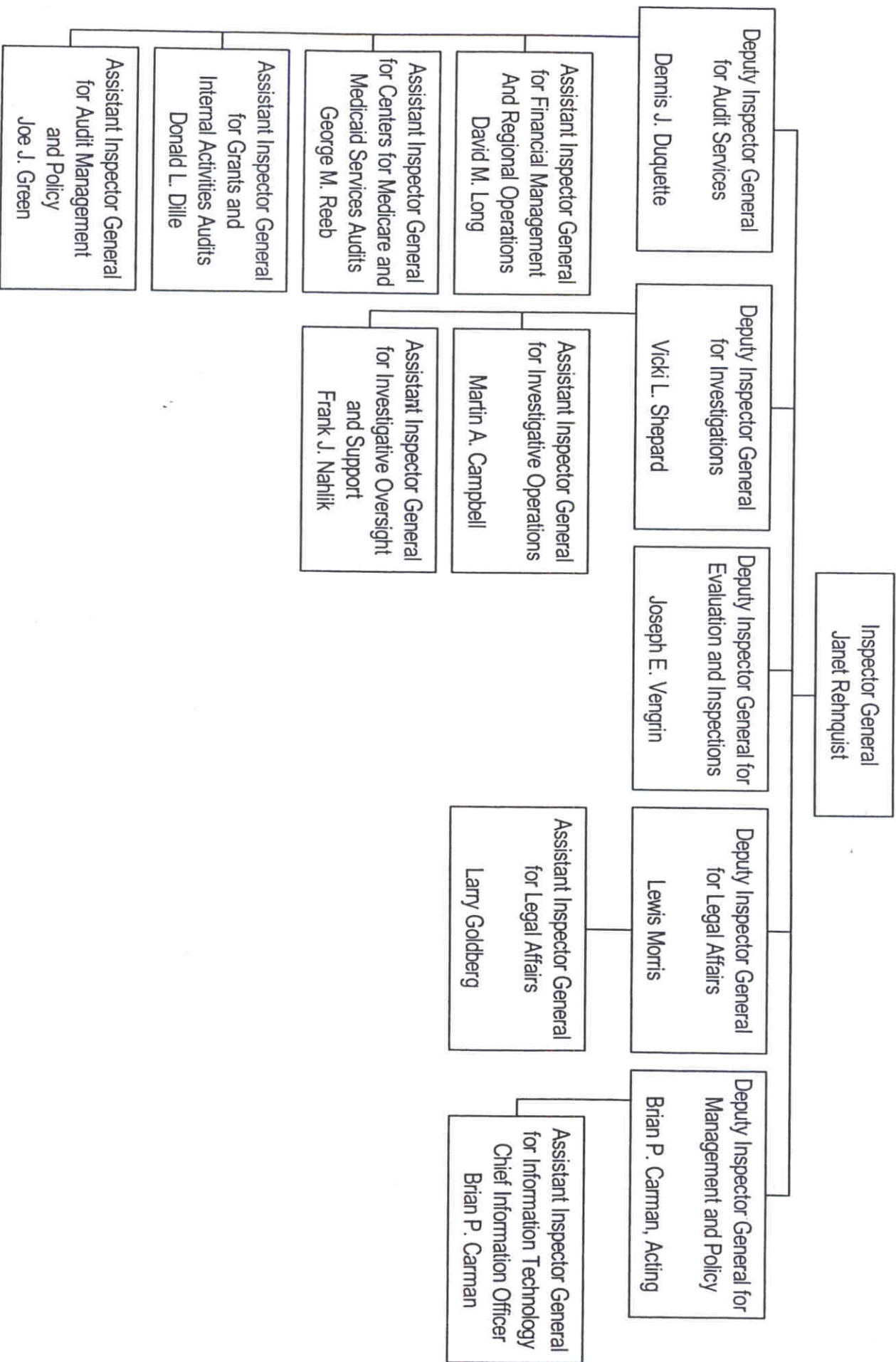


## **Conflict of Interest Referrals to the IG and Investigations**

# Office of Inspector General

January 2003





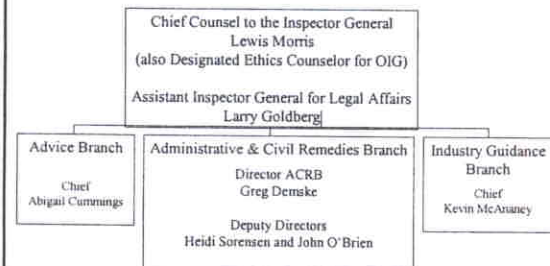
## OIG Overview

**Mission:** to protect the integrity of Department of Health and Human Services programs, as well as the health and welfare of the beneficiaries of those programs.

## OIG Components:

- Office of Counsel to the Inspector General
- Office of Audit Services
- Office of Investigations
- Office of Evaluation and Inspections
- Office of Management and Policy

## OCIG Organization



## Advice Branch

Chief: Abigail Cummings

- Legal advice to OI, OAS, OEI and OMP on programs and operations of HHS
- Personnel law and employment discrimination – Advice and representation
- Information disclosure and privacy
- Legal updates and legal monographs\*
- Ethics

*\*Indicates lead responsibility  
(Other branches share responsibility)*

## Advice Branch

Chief: Abigail Cummings

- Guidance on personal liability; defense in tort cases
- Guidance on authorities and responsibilities of OIG
- Scope and exercise of IG's law enforcement authorities
- Subpoena clearance and enforcement\*

*\*Indicates lead responsibility  
(Other branches share responsibility)*

## Administrative and Civil Remedies Branch

Director: Greg Demske

Deputy Directors: Heidi Sorensen and John O'Brien

- All civil and administrative litigation issues
  - all False Claims Act and qui tam cases
  - includes final sign-off on settlements for DHHS

## Administrative and Civil Remedies Branch

- All civil litigation (and related settlement negotiations)
  - False Claims Act
- All administrative litigation
  - Civil Monetary Penalties
  - Exclusions
- All compliance monitoring

## Administrative and Civil Remedies Branch

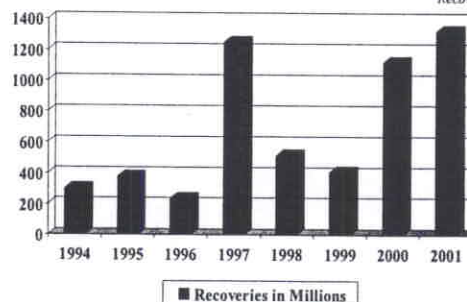
- Goals
  - Enhance relationships between OCIG and OI field personnel and between OCIG and U. S. Attorneys Offices
  - Increase CMP and affirmative exclusion cases
  - Eliminate separation of settlement and litigation functions

## Administrative and Civil Remedies Branch

- Civil Litigation Functions
  - Coordination with U.S. Attorneys offices in civil cases
  - Global settlements
  - False claims act/qui tam lawsuits
  - Drafting and negotiating Corporate Integrity Agreements (CIA's)
  - Provider self disclosures

## Total Monetary Recoveries \*

*Includes all Healthcare and other HHS Program Recoveries*



\*OI, OAS, OCIG jointly

As of 8/13/02

## Administrative and Civil Remedies Branch

- Compliance Function
  - Compliance monitoring
  - On-site visits of providers
  - Enforcing CIA's

## Administrative and Civil Remedies Branch

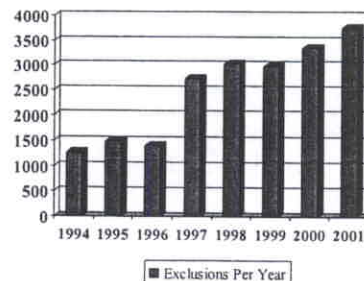
- Civil Monetary Penalty Function
  - False claims
  - Kickbacks
  - Physician self-referral ("Stark") violations
  - Billing while excluded
  - Patient dumping
  - Managed care violations

## Administrative and Civil Remedies Branch

### ● Exclusion Function

- Litigation of appeals of *derivative exclusions*
  - Conviction of program related crime
  - Loss of medical license
- Initiation and litigation of appeals of *affirmative exclusions*
  - False claims / kickbacks
  - Quality of care

## Exclusions \*



\* Jointly with OI

## Industry Guidance Branch

Chief: Kevin McAnaney

- Advisory Opinions to the health care industry and members of the public
- Solicits and responds to proposals for new regulatory Safe Harbors to the Anti-kickback Statute
- Fraud Alerts \*
- Special Advisory Bulletins\*
- Compliance Guidances\*

\*Indicates lead responsibility  
(Other branches share responsibility)

## Anti-Kickback Statute

- Prohibits giving anything of value intended to induce the referral of Federal health care program business
- Criminal (felony) and civil penalties (CMP or exclusion)
- Doctors the most common recipients
- Rule of thumb: payments must be "fair market value" for items or services provided



Office of Inspector General  
Office of Counsel to the Inspector General

General number (202) 619-0335

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## **Office of Investigations**

The Office of Investigations is the second largest component, after the Office of Audit Services. OI works with federal and state law enforcement agencies. Criminal investigators seek criminal and civil actions against those who commit fraud. OI focuses on providers of services and suppliers under Medicare and Medicaid, program applicants and grantees, beneficiaries and other recipients of federal funds and HHS employees. Because of the funding mechanism, 80% of the work done in the OIG is Medicare or Medicaid related.

## **Office of Audit Services**

The largest office is OAS. It is divided into Audit Operations and Financial Statement Activities, CMS Audits, Administration of Children, Family and Aging Audits and Public Health Audits. It conducts and oversees audits of HHS programs, operations, grantees and contractors, identifies systemic weaknesses that give rise to opportunities for fraud and abuse; and make recommendations to prevent their recurrence. They also perform financial statements audits under the Chief Financial Officers (CFO) Act of 1990 and the Government Reform Act (GMRA) of 1994.

## **Office of Evaluation and Inspections**

OEI conducts short-term (some audits can take years to complete) program evaluations (called inspections) focusing on issues concerning the Department, Congress and the public. For example, device and drug approvals/removals and Medicare client satisfaction. Results of the work generate rapid and reliable information on how well HHS programs are operating and OEI offers recommendations to entities in order to improve their efficiency and effectiveness.

## **Office of Management and Policy**

Finally, the Office of Management and Policy provides support services to the OIG including congressional relations, legislative and regulatory review and public affairs, strategic planning and budgeting, financial and information management, resources management and preparation of the OIG's semiannual report and other reports.

## **Ethics Investigations**

- ◆ Detect and deter fraud against HHS employees, programs, and resources
- ◆ Substantiate or disprove allegations
- ◆ Coordinate with the Department of Justice and Office of Government Ethics

### **Types of Investigations**

#### ◆ Conflict of Interest

- bribery/gratuity
- compensation for representation affecting the government
- representation affecting the Government
- post-employment
- acts affecting a personal interest
- supplementation of salary

#### ◆ Investigative Process

1. Receive an allegation
  - a. hotline complaint
  - b. referrals
2. Evaluate for investigative sufficiency
  - a. referral out
  - b. preliminary
  - c. open a case
3. Initiate investigative process
  - a. conduct leads, interviews, interrogations
  - b. employ investigative tools
    - IG subpoenas
    - Grand Jury subpoenas
    - Consensual monitoring devices
    - confidential sources
    - surveillance
    - computer forensics
    - undercover operations
    - polygraph

4. A. Coordinate with U.S. Attorney/Main Department of Justice
- B. Report findings
  - provide periodic status reports to IG
  - final report
- C. Participate in settlement talks/trial preparations

◆ Remedies

- Criminal (prosecution, indictments and convictions)
- Civil (fines and restitution)
- Administrative (oral reprimands, admonishments and termination, suspension or
  - debarment or debt collection)
- Disprove the Allegation